



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,057	08/12/2008	Franz Knauseder	080045-000100US	7234
20350 7590 01/24/2011 KILPATRICK TOWNSEND & STOCKTON LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER GITLIN, MATTHEW J	
			ART UNIT 3635	PAPER NUMBER
			NOTIFICATION DATE 01/24/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docket@kilpatricktownsend.com
ipefiling@kilpatricktownsend.com
jlhice@kilpatrick.foundationip.com

Office Action Summary	Application No. 10/593,057	Applicant(s) KNAUSEDER, FRANZ	
	Examiner Matthew J. Gitlin	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-13, 15-19, 21, 22, 24, 25, 27, 30, 32, 33 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-13, 15-19, 21-22, 24-25, 27, 30, 32-33 and 35-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Austrian Application A511/2004</u> |

Art Unit: 3635

DETAILED ACTION

Response to Amendment

1. The Amendment filed 10/22/2010 has been entered. Claims 37-39 are newly added, Claims 1, 14, 20, 23, 26, 28-29, 31 and 34 have been cancelled. Currently, Claims 2-13, 15, 17-19, 21-22, 24-25, 27, 30, 32-33 and 35-39 are pending.

Response to Arguments

2. Applicant's arguments filed 09/10/2010 have been fully considered but they are not persuasive.

3. Applicant contends that **Claim 37** is not anticipated by Sjoberg (US 2004/0182036) for the following reasons:

4. Firstly, the claim that “in Sjoberg, the surface which receives recess 26’ is parallel to the face surface of the plate and not sloping relative to the face as required by the claim” is not persuasive.

5. The portion of Sjoberg which slopingly extends relative to a face surface of the panel is the front sloped face of portion 26 as seen in Figure 4a. This meets the claim limitation of “the recess being formed in a portion of the tongue.”

6. Applicant contents that “no bead or web is mounted in tongue recess 26’ of Sjoberg, and no height and thickness ratio is therefore provided by the reference.” This is not persuasive.

7. The claim language of “a bead or web of an adhesive and/or plastic material being pre-applied in a factory to at least one tongue surface (7) of each panel” is anticipated by Sjoberg.

Art Unit: 3635

8. As seen in Fig. 4a, bead material 27' is applied in "at least one tongue surface." The tongue referred to is the bottom tongue portion adjacent 10" in the left portion of Fig. 4a. This tongue defines groove 30 and the bead 27' is pre-applied into it.

9. Applicant contends that the limitation "wherein the detent surface is formed by a direct extension of an inner surface of the groove" is not anticipated by Sjoberg. This is not found persuasive.

10. As seen in the left portion of Fig. 4a. the lower tongue which defines the groove, previously referred to, forms a detent surface (**Sidewall of 27 in fig. 4a**) by a direct extension of an inner surface of said groove (**as seen in Fig. 4a**).

11. Lastly, Applicant contends that no part of Sjoberg anticipates "in the assembled state of the panels, the groove and tongue between the bead or web and a rounded transition wall surface between the inner surface of the groove and the detent surface define a moon-shaped gap." **This is found persuasive. New grounds of rejection can be seen below.**

12. Applicant contends that **Claim 38** is not anticipated by Sjoberg (US 2004/0182036) for the following reasons:

13. Applicant contends that Sjoberg does not anticipate "a bead made of an adhesive, plastically deformable material applied to the recess in each tongue of the panels, the bead being dimensioned so that when placed in the recess the bead projects past the recess."

14. This is not found persuasive. As seen in Fig. 4b, the bead of 27' is applied into the recess 26' of the tongue and projects past the dimensions of the recess.

Art Unit: 3635

15. Applicant contends that the snapping web 26 of Sjoberg is not spaced apart from the end of the groove. This is not found persuasive. As seen in Fig. 4c, in the assembled state, 26 projects perpendicularly downward from the front face of the panel and is spaced apart from the end wall of the groove.

16. Applicant contends that in Sjoberg, there is no bead that forms a mechanical connection between the recess in the tongue and the detent in the groove. This is not found persuasive. As seen in Fig. 4b, the bead is mechanically deformed upon insertion, which in turn forms a connection to resist the panels from disconnecting.

Priority

17. Regarding the lack of Austrian Application A511/2004 filed 03/23/2004 in the current application file; this copy was supposed to be provided by the International Bureau since the application is a National Stage entry of PCT/AT2005/000054. A request has been submitted for these missing papers to be entered into the file. The document has been attached to this action.

Claim Objections

18. **Claim 37** is objected to because of the following informalities: At the end of the claim, “moon-shaped gap 21” should be written “moon-shaped gap (21).

19. Appropriate correction is required.

Claim Rejections - 35 USC § 112

20. The following is a quotation of the first paragraph of 35 U.S.C. 112:

Art Unit: 3635

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

21. **Claims 2-13, 15, 19, 21-22, 24-25, 27. 30, 32-33, 35-37 and 39** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

22. **Claim 37** recites “wherein, in the assembled state of the plates, the groove (12) and tongue (6) between the bead of web (8) and a rounded transition wall surface (21) between the inner surface (5) of the groove and the detent surface (4) define a moon-shaped gap (21).”

23. There is no support in the original disclosure for a “moon-shaped gap.” The original disclosure only shows support for “meniscal area 21.” A common definition of a meniscus is being crescent shaped. Although a crescent is a phase of the moon, the term “moon-shaped” is broader than “crescent shaped” and therefore not encompassed by the original disclosure.

24. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

25. **Claims 2-13, 15, 19, 21-22, 24-25, 27. 30, 32-33, 35-37 and 39** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

26. **Claim 37** recites “the plate” in lines 16, 18, 23 and 28. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3635

27. It will be assumed that the term “plate” was meant to be written “panel” in the claim.

Claim Rejections - 35 USC § 102

28. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

29. **Claim 38** is rejected under 35 U.S.C. 102(e) as being unpatentable by Sjoberg et al. (US 2004/0182036).

30. Sjoberg discloses a system for covering a flat surface with panels (1) that are joined edge-to-edge (**Fig. 4c**), the system comprising a plurality of panels, each panel having spaced-apart, parallel longitudinal edges and spaced-apart, parallel transverse edges (**Figs. 1-4**), a tongue (29) projecting from one of the longitudinal edges (**Right of Fig. 4a**) and from one of the transverse edges (**Fig. 4a**), and a groove (30) shaped to receive the tongues (**Fig. 4b-4c**) and formed in the other longitudinal edge (**Left Fig. 4a**) and the other transverse edge arranged so that cooperating tongues and grooves can be joined to each other by moving the panels in the plane of the flat surface (**Fig. 4c**), a surface (**Underside surface, right portion of Fig. 4a**) of each tongue of a given panel defining a recess (26') which faces an opposing surface defined by the respective grooves (**Figs. 4b-4c**) of other panels that are to be joined to the given panel, each groove of the other panels terminating in an inner groove end (**Inner left vertical end of groove, as seen in left portion of Fig. 4a**), the respective recesses facing the respective opposing surfaces defined

Art Unit: 3635

by the groove of the other panels (**Figs. 4b-4c**), and a nose (**Leftmost end of tongue, as seen in right portion of Fig. 4a**) which extends in a longitudinal direction of each tongue and is arranged on a side of the recess that is remote from an inner end of the associated groove (**Fig. 4c**), the groove of each panel defining a chamfer projection (**Rightmost projecting portion of lower portion of groove, adjacent 27', as seen in the left portion of Fig. 4a**) positioned substantially opposite the nose when the panels are in their assembled state (**Seen Fig. 4c**) which forms a detent recess (**27**) remote from the inner end of the groove (**Fig. 4a**), and a bead (**27'**) of a non-curing thermoplastic elastomeric sealant (**Paragraph [0032]**) material applied to the recess in each tongue of the panels (**Shown applied to recess in Figs. 4b-4c**), the bead being dimensioned so that when placed in the recess (**Figs. 4b-4c**) the bead projects past the recess (**And into detent recess 27, as seen in Fig. 4b-4c**), the nose and the chamfer projection being configured and dimensioned so that upon full insertion of the tongue of the given panel into the groove of another panel, the nose and the chamfer projection remain spaced apart in a direction perpendicular to the plane of the flat surface (**Upper portion of nose is vertically displaced from chamfer section, as seen in Fig. 4c, vertical direction being perpendicular**) so that the nose and chamfer projection can move past each other without contacting each other during insertion of the tongue into the groove (**Fig. 4c**), and so that when the panels are in their assembled state, the bead extends from the recess into the detent recess (**Fig. 4c**) and maintains joined panels in edge-to-edge contact by mechanically and adhesively securing the tongue of the given panel to the groove of the other panel (**Fig. 4c**).

Art Unit: 3635

Claim Rejections - 35 USC § 103

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

32. **Claims 2-13, 15, 19, 21-22, 24-25, 27, 30, 32-33, 35-37 and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sjoberg et al. (US 2004/0182036) in view of Moebus et al. (WO 03/087497 A1).

33. **Claim 37**; Sjoberg discloses a plurality of covering panels (1) for floors, walls and ceilings (**Paragraph [0002]**), formed wood based material like fiber board, particle board, chip board, oriented strand board or massive wood (**Paragraph [0034]**), the covering panels to be laid down and joined in a plane (**Fig. 4c**) and comprising a groove (30) along at least one edge or front surface (**Left Fig. 4a**) and a tongue (29) along at least one different edge or front surface of each panel (**Right, Fig 4a**), the panels being configured to be joined by inserting the tongue into the groove (**Figs. 4b-4c**) and displacing the panels substantially in the plane in which the panels are to be laid down, a bead (27') of a non-curing thermoplastic elastomeric sealant (**Paragraph [0032]**) material being preapplied in a factory to at least one tongue surface (**As seen in the left portion of Fig. 4a, bead applied to surface of lower tongue portion which defines the lower limit of groove 30**) of each panel, a recess (26') having a triangular cross-section (**Left and top perpendicular segments of 26' in addition to line connecting their most extreme edges for a triangle**) formed in a surface of the tongue (**Right Fig. 4a**), the bead or web of an adhesive and/or of plastic material being partially disposed in the recess (**Fig. 4b**), the recess being formed

Art Unit: 3635

in a portion of the tongue which slopingly extends relative to a face surface of the plate (**Front sloped face of portion 26 as seen in Figure 4a**), a wall surface (**Lower wall of groove 30**) defined by the groove including a detent recess (**27**) bounded by a detent surface (**Seen in Fig. 4b**) into which the bead or web extends (**Fig. 4b**), the detent recess receiving and surrounding a portion of the bead or web protruding from the recess (**Fig. 4b**) so that, upon insertion of the tongue into the groove, the bead or web and the detent surface of two adjacent connected plates become secured to each other (**Connection seen in Figs. 4b-4c**), and the recess having a depth of between 30 to 55% of a thickness of the bead (**Fig. 4b**), wherein the detent surface is formed by a direct extension of an inner surface of the groove (**Left, Fig. 4a**).

34. Sjoberg does not expressly disclose wherein, in the assembled state of the plates, the groove and tongue between the bead and a rounded transition wall surface between the inner surface of the groove and the detent surface define a moon-shaped gap.

35. Moebus discloses a panel connection (**Fig. 5**) including a groove (**11**) and a tongue (**12**) between a bead (**22**) and a rounded transition wall surface (**Adjacent 8. Fig. 5**) between the inner surface of the groove and the detent surface define a moon-shaped gap (**Rounded gap as seen where bead 22 is disposed in Fig. 5**) for the purpose of accommodating a rounded shaped bead to provide a mechanical connection between adjacently connected panels.

36. At the time of the invention it would have been obvious to a person having ordinary skill in the art to provide the invention of Sjoberg, with wherein, in the assembled state of the plates, the groove and tongue between the bead and a rounded transition wall surface between the inner surface of the groove and the detent surface define a moon-shaped gap, as taught by Moebus, in

Art Unit: 3635

order to provide Sjoberg with a mechanical connection which could accommodate a commonly known rounded shape of bead, to provide a mechanical connection between adjacent panels.

37. **Claim 2;** Sjoberg discloses wherein the groove and the tongue are each formed on a longitudinal side and on a transverse side of a panel (**Paragraph [0005]**).

38. **Claim 3;** Sjoberg discloses wherein the thickness of the tongue decreases towards the free end (**Fig. 4a**), wherein at least one tongue surface is inclined relative to the surface of the panels (**Angled end surface as seen in Fig. 4a**) and the wall surface of the groove extend under the same angle as the associated or engaging tongue surfaces (**Fig. 4a**).

39. **Claim 4;** Sjoberg discloses wherein the tongue and the groove can be interconnected, at least over part of the surfaces facing each other, in a positive way or with a snug fit (**Figs. 4a-4c**).

40. **Claim 5;** Sjoberg discloses edges provided with joining means for positioning the panels towards one another. Predetermined portions of the edges are provided with a layer of polymer. The panels are joined to one another by use of the joining means where the polymer forms a seal in the joint preventing penetration of water into the joint wherein a highly water resistant unit of a plurality of panels is formed (**Paragraph [0004]**).

41. **Claim 6;** Sjoberg discloses a groove in said tongue with an opening larger than a base (**As displayed in the right side of Fig. 2**).

42. **Claim 7;** Sjoberg discloses wherein said bead is a contact glue which normally is of a nitril rubber type (**Paragraph [0008]**).

43. **Claim 8;** Sjoberg discloses the it is advantageous to use a polymer with good storage stability and which do not dry out or form skin before the installation (**Paragraph [0007]**) and

Art Unit: 3635

which acts as a locking element against escaping of the tongue from the groove (**As displayed in Fig 4c**).

44. **Claim 9;** Sjoberg discloses wherein legs of the grooves have an equal length (**Upper and lower legs of Groove in Figs. 4a-4c**).

45. **Claim 10;** Sjoberg discloses wherein the groove and tongue are formed of the material of the panel (**Core material as seen in Figs. 4a-4c**).

47. **Claim 11;** Sjoberg discloses wherein the upper surfaces of the tongue and groove engage during interlocking (**Fig. 4b**) and wherein a gap is formed towards the innermost part of the groove when the tongue and groove are engaged (**As displayed in Fig. 4c**).

48. **Claim 12;** Sjoberg discloses wherein a part of the bead which projects from the recess is formed of a rounded contour (**As seen in Fig. 4b**).

49. **Claim 13;** Sjoberg discloses wherein the projecting portion of the bead acts as a locking portion (**Fig. 4c**).

50. **Claim 15;** Sjoberg discloses wherein the bead firmly adheres in the recess (**As displayed in Fig. 4b-4c**).

51. **Claim 16;** Sjoberg discloses wherein the bead engages the detent surface and the groove surface in a pressure biasing manner (**As displayed in Figs. 4b-4c**).

52. **Claim 17;** Since Sjoberg discloses a plastic bead material as seen in the rejection to Claim 1, Claim 17 does not further limit Claim 1 and is therefore included in the current rejection.

Art Unit: 3635

53. **Claim 18;** Sjoberg does not expressly disclose wherein said bead is applied with a substantially uniform layer thickness of 0.5 to 0.9 mm, particularly of 0.6 to 0.8 mm, with thickness tolerances in the range of +0.05 to 0.1 mm.

At the time of the invention it would have been obvious to a person having ordinary skill in the art to try and provide the bead of Sjoberg, with a uniform thickness measuring 0.5 to 0.9 mm, particularly of 0.6 to 0.8 mm, with thickness tolerances in the range of +0.05 to 0.1 mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. **In re Rose, 105 USPQ 237 (CCPA 1955).**

54. **Claim 19;** Sjoberg discloses wherein the detent recess is formed only in the wall surface of a lower leg of the groove (**Figs. 4a-4c**).

55. **Claim 21;** Sjoberg discloses wherein in a locked position (**Figs. 4b-4c**) the bead is under a force bias by at least one groove leg (**26**).

56. **Claim 22;** Sjoberg discloses wherein the bead extends parallel to and along the edges of the front surface of the panel (**Direction of extension shown transverse to the plane displayed in Figs. 4a-4c**).

57. **Claim 24;** Sjoberg does not expressly disclose wherein the depth of the recess amounts to 30 to 55%, preferably 36 to 48%, of the total thickness or height of the bead.

At the time of the invention it would have been obvious to a person having ordinary skill in the art to try and provide the bead of Sjoberg, with wherein the depth of the recess amounts to 30 to 55%, preferably 36 to 48%, of the total thickness or height of the bead, since such a modification would have involved a mere change in the size of a component. A change in size is

Art Unit: 3635

generally recognized as being within the level of ordinary skill in the art. **In re Rose, 105 USPQ 237 (CCPA 1955).**

58. **Claim 25;** Sjoberg discloses wherein the cross-section of that portion of the bead which projects from the recess is rounded in a circular shaped fashion (**Rounded fashion as displayed in Figs. 4b-4c**).

59. **Claims 27 and 39;** Sjoberg discloses wherein the detent surface is formed by a prolongation of the inner wall surface of the groove (**27, Fig 4a**), and is inclined to the surface of the panel (**Leftmost surface of detent, Fig. 4a**) but does not expressly disclose an inclination angle of 95° to 105°, preferably of 97° to 103° or 90°.

At the time of the invention it would have been obvious to a person having ordinary skill in the art to try and provide the bead of Sjoberg, with wherein an inclination angle of 95° to 105°, preferably of 97° to 103° or 90°, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. **In re Rose, 105 USPQ 237 (CCPA 1955).**

60. **Claim 30;** Sjoberg discloses wherein the bead comprises a tongue (**Upper right portion of bead in Fig. 4b**) which engages the detent surface (**Fig. 4b**).

61. **Claim 32;** Sjoberg discloses wherein the region of the front surfaces (**25^{II}**) above the groove near the upper surface includes a stop (**31**) for delimiting the insertion of the tongue into the groove wherein at least one spacer is arranged which determines the distance of the opposite front surfaces of the panels to be interconnected (**Fig. 4b**).

62. **Claim 33;** Sjoberg discloses wherein a portion of the groove surface extends over the recess engages the bead (**Surfaces engaging bead in Figs. 4a-4c**).

Art Unit: 3635

63. **Claim 35;** Sjoberg discloses wherein the detent recess and the recess and the bead (**All parallel vertical surfaces as seen in Fig. 4a**) extend at least along a portion parallel to the respective front surface (**Fig. 4a**).

64. **Claim 36;** Sjoberg discloses wherein a free space (**Fig. 4b**) is formed by the recess between the bead and the inner surfaces of the recess, which join the tongue surface and extend into the interior of the tongue (**Fig. 4b**).

Conclusion

65. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

66. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

67. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3635

68. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Gitlin whose telephone number is (571)270-5525.

The examiner can normally be reached on Monday - Friday (7:30am-5:00pm EST).

69. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571)272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

70. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. J. G./

Examiner, Art Unit 3635

/Robert J Canfield/

for E. Lillis, SPE of Art Unit 3635